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Human rights situations that require the Council's attention

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Thailand: Human rights under threat following coup

1. The Asian Legal Resource Centre (ALRC) wishes to raise grave concerns with the Human Rights Council about the threats to human rights subsequent to the coup launched by a military junta calling itself the National Peace and Order Maintenance Council (NPOMC) and led by General Prayuth Chan-ocha on May 22, 2014 in Thailand. The NPOMC abrogated the 2007 Constitution and installed itself as the government. Under martial law, which was put in place two days prior to the coup on May 20, 2014, there were already significant restrictions on rights and freedoms. The coup has intensified these restrictions and removed most checks on the power of the military junta. All public protest and criticism of the junta is banned. Carried out for the alleged purpose of vaguely-defined "reform," the mass arrests and arbitrary detention, passage of repressive coup orders, and extensive constriction of political freedom during the first three days following the coup indicate that the junta's vision of reform is one bereft of human rights and the rule of law. Despite the restrictions put in place under martial law and the law of the junta, Thai human rights defenders and citizens are courageously and peacefully demonstrating against the military's presence in Bangkok and other cities across the country.

2. The NPOMC immediately began a process of mass arrests of those deemed to oppose them. Under the terms of martial law, soldiers can detain and interrogate anyone for up to seven days without having to provide evidence of wrongdoing or bring formal charges. People arrested can be held at irregular places of detention, including permanent or temporary military bases or other sites designated as places of detention. Detention in irregular places means that the possibility for rights violations, including torture, forced disappearance and extrajudicial execution is greatly increased. In southern Thailand, where martial law has been in continual force since January 2004, the instrument has been used to arbitrarily detain and activists as well as ordinary citizens.

3. Those detained, or targeted for arrest and detention, include politicians from all sides of the political spectrum, red and yellow shirt activists, academics, human rights defenders, writers, publishers, and other dissidents and citizens. The methods of arrest and detention have varied widely. This has included the arrest of peaceful demonstrators in protests throughout the country, as well as a series of ongoing orders announced via public broadcast beginning on May 24, 2014, for citizens to report themselves to the military in Bangkok. In other cases, the homes of human rights defenders and other citizens have been raided by the military and the residents taken into detention. There are also growing reports that in many local areas, citizens are being summoned to report to the military authorities as well. The simultaneous use of these various methods functions to create an atmosphere of public terror, in which citizens do not know if, or when, their name will be announced on the radio or television, or when a knock on the door will arrive.

4. At this time, the complete number of those detained, as well as those released and those the authorities would still like to apprehend, has not been made available by the junta. On May 25, 2014, Colonel Winthai Suwaree, the spokesperson for the NPOMC said at a press conference that the junta will not reveal the total number of people who have been requested to report, detained, and/or released, nor the places of detention. Despite this refusal, there are more than 200 persons who have been named on various publicly-announced summons lists. The ALRC has also learned that in northern and northeastern Thailand, the authorities have issued local summons to people which have not been publicized.

5. One of the lists of summons, NPOMC Order No. 5/2014 announced on May 24, 2014, indicates that the junta is moving swiftly to criminalize thinking and action which challenges the power or the military or the role of the monarchy in the Thai polity. For example, Worachet Pakeerut and Sawatree Suksri, two academics from the Khana Nitirat, a group of law scholars at Thammasat University who work to make legal knwoledge accessible to a wide range of people, are on the list. In addition, political scientist Pavin Chachavalpongpun, philosopher Surapot Thaweesak, historian Somsak Jeamteerasakul, criminology scholar Sudsanguan Suthisorn and communications scholar Suda Rangkupan, were also named. They are each scholars who question authority and the basis of the unjust exercise of power in Thai society. The list also includes three former political prisoners who were accused of violating Article 112 (the article in the Thai Criminal Code which criminalizes alleged defamation of the monarchy) and were then pardoned and exonerated, namely Suraphak Phuchaisaeng, Surachai Danwattananusorn, and Thantawut Taweewarodomkul. Thanapol Eawsakul, writer and editor of Same Sky magazine, was also on the summons list, although he had been in custody since the prior day following arrest at a peaceful protest. The inclusion of these individuals on the list indicate

that the NPOMC is casting a wide variety of dissident citizens as its enemies. Those listed on summons to report face a maximum punishment of 2 years in prison and/or a 40,000 baht fine (appx. 9,500 USD) if they fail to do so.

6. While not all of those summoned have reported themselves, there are three people among those listed to have been summoned who are known to be detained. On May 25, 2014, the military junta confirmed that Thanapol Eawsakul, Surapot Thaweesak, and Sudsanguan Suthisorn have been sent to a miltary camp in Rachaburi province where the junta claims that they will be held for no more than seven days. While the junta has made reassurances that those who report themselves will not be mistreated, within the context of martial law and rule by the junta, this reassurance carries no weight. Any assurances of safety are further called into question by Colonel Winthai Suntharee's refusal to reveal the locations of places of detention or to provide more specific information about the precise numbers and identities of those who are detained.

7. In addition to the detention of those who have reported themselves following summons, the ALRC also wants to highlight the raid on the house of Sukanya Prueksakasemsuk and the subsequent detention of she and her son, Panitan Prueksakasemsuk. On May 25, 2014, the Prueksakasemsuk house was raided, two laptop computers were seized, and Sukanya and Panitan were arrested. Sukanya is the wife of Somyot Prueksakasekmsuk, who is curently serving an 11-year prison sentence for alleged violations of Article 112 in relation to articles published in a magazine he edited. Since Somyot was first imprisoned three years ago, Sukanya has struggled for his release and to protect the right to freedom of expression in Thailand. His son, Panitan, who has just completed a law degree at Thammasat University, has also worked on behalf of his father and others imprisoned for exercising the freedom of expression. The ALRC is concerned that their detention may herald harassment of family members of people serving prison sentences under Article 112, who are implicitly judged to be disloyal to the monarchy, and/or a sharp attack on human rights defenders working to protect freedom of speech.

8. The ALRC would like to remind the Government of Thailand of its obligations as a State Party to the International Covenant on Civil and Political Rights. In particular, article 9 bears upon the arbitrary detention described in this submission, and specifically that, "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release..."

9. The detention of Thanapol Eawsakul, Surapot Thaweesak, Sudsanguan Suthisorn, Sukanta Prueksakasemsuk, Panitan Prueksakasemsuk, and all others who have been arrested under martial law following the coup is arbitrary. If the junta has evidence that those in detention have committed wrongdoing, then they should be formally charged through the judicial system and using the Criminal Code.

10. The ALRC would also like to highlight a related, additional grave threat to human rights presented by the actions of the National Peace and Order Maintenance Council. On May 25, 2014, the junta's Order No. 37/2014 mandated that all cases of individuals charged under Articles 107 to 118 of the Criminal Code would now be adjudicated in the military court system Articles 107 to 112 describe crimes against the crown and Articles 113 to 118 describe crimes against national security. Since the September 19, 2006 coup, there has been a exponential rise in complaints brought under Article 112, which stipulates that "Whoever defames, insults or threatens the King, Queen, the Heir-apparent or the Regent, shall be punished (with) imprisonment of three to fifteen years." The measure, and the threat of being charged under it, has been used by the state to constrict freedom of speech, intimidate activists, and limit human rights. As the ALRC has warned the Council in eight previous statements, the most recent submitted during the twenty-fifth session in March 2014 (A/HRC/25/NGO/61), freedom of expression in Thailand has faced legal and extralegal threats under a democratic regime. With the imposition of military rule, and the transfer of cases under Article 112 to military courts, in judgments are summary and the accused has no right of appeal, the ALRC is concerned that freedom of speech will disappear entirely and those critics who have raised important questions about the role of the monarchy in the Thai polity will face long periods of imprisonment for their thinking and speech.

11. In view of the above and in line with the International Covenant on Civil and Political Rights, the Asian Legal Resource Centre calls on the UN Human Rights Council to:

a. Call on the Government of Thailand to immediately return to constitutional rule;

b. Urge the Working Group on Arbitrary Detention to carefully monitor events in Thailand and in particular, derogation of responsibilities under the International Covenant on Civil and Political Rights, and to call on the Government of Thailand to act in accordance with the protection and promotion of human rights;

c. Urge the Special Rapporteur on the situation of human rights defenders to carefully monitor events in Thailand and in particular, the targeting of human rights defenders to safely carry out their work, and;

d. Request the Special Rapporteur on the freedom of opinion and expression to continue ongoing monitoring and research about the broad situation of constriction of rights and individual cases in Thailand and how this is affected under military rule.